THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 23072 of 2006

DATE:26-07-2007

Between :

E.Narasinga Rao

… Petitioner

And

The Government of Andhra Pradesh,
Rep., by its Principal Secretary,
Hyderabad and 11 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 23072 of 2006

ORDER:

This writ petition is filed seeking a declaration that the order passed by the first respondent vide G.O.Rt.No.1986, Revenue (Endowments.II/1) Department, dated 08-09-2006, thereby constituting a Board of Trustees to the third respondent-temple under Section 15(1) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act") is arbitrary and illegal.

The petitioner herein claims to be a devotee of third respondent-temple. It is not in dispute that the third respondent-temple is an institution published under Section 6(a) of the Act, and therefore, the competent authority to constitute the Board of Trustees is the Government. Accordingly, a notification dated 11-04-2005 was issued by the first respondent calling for applications from the interested persons for appointment of the Board of Trustees. However, the same was withdrawn and subsequently vide proceedings dated 05-07-2006 the first respondent directed the second respondent-Commissioner of Endowments to take necessary action for issuance of notice in Form-I appended to Andhra Pradesh Charitable and Hindu Religious and Endowments appointment of Trustees Rules, 1987 (for short 'the Rules') duly following the procedure prescribed and causing wide publication in leading daily news papers.

In pursuance thereof, the Executive Officer of the third respondent-temple has given a paper statement on 02-08-2006 calling for applications from interested persons within a period of 30 days.

Thereafter, the impugned order dated 08-09-2006 came to be passed by the first respondent constituting a Board of Trustees by appointing the respondents 4 to 12 herein as members of the Trust Board. The said order is challenged by the petitioner primarily on the ground that since there was no proper publication of the notice as required under Rule 4(2) of the Rules, the entire selection process was vitiated and the impugned order is liable to be set aside on that ground alone. It is contended that the press statement given by the Executive Officer was not in proper compliance with the procedure prescribed under Section 17 (3) of the Act read with Rule 4(2) of the Rules and therefore the impugned order was ex facie illegal.

In the counter affidavit filed on behalf of the respondents 1 and 2 by the Deputy Commissioner of Endowments, it is stated that the notice in Form I inviting applications for trusteeship was affixed in the office of the Assistant Commissioner on 13-07-2006. The notice was also affixed on the Notice Board of the temple on 15-07-2006. That apart the Executive Officer of the Temple had issued a statement in the local dailies dated 02-08-2006 inviting applications from the interested persons for constitution of the Board of Trustees. Pursuant thereto, 9 applications were received by the second respondent on 17-07-2006 and the same were sent to the Assistant Commissioner of Endowments for verification of their antecedents. The Assistant Commissioner of Endowments received one more application on 31-07-2006 and after verifying the antecedents of all the 10 applicants, a report was submitted to the second respondent vide proceedings dated 05-08-2006. In the meanwhile, two more applications were received by the second respondent on 29-07-2006 and the same were also sent to the Assistant Commissioner vide proceedings dated 02-08-2006. Pursuant thereto, the Assistant Commissioner had verified their antecedents and submitted a separate report dated 18-08-2006 which was in turn submitted to the first respondent vide proceedings dated 21-08-2006. Having considered the same, the first respondent

issued the impugned order dated 08-09-2006 duly constituting the Board of Trustees. Thus, the entire procedure followed by the respondents is in accordance with law and therefore, the interference by this Court is not warranted.

A separate counter affidavit has been filed by the Executive Officer reiterating that there was proper publication of the notice as required under law and there was no illegality in appointing the Trust Board members as alleged by the petitioner.

The respondents 4 to 12 also filed a counter affidavit contending that the petitioner has no *locus standi* to challenge the impugned order constituting the Board of Trustees and on that ground alone, the writ petition is liable to be dismissed. It is also stated that pursuant to the impugned order, they were already administered an oath of office on 13-09-2006 and thereafter respondent No.9 was elected as Chairman of the Board of Trustees.

I have heard the learned counsel for both the parties and perused the material on record.

It is to be noted that in exercise of the Rule making power under Section 17(3) read with Section 15(3) of the Act, the Government made the Rules under G.O.Ms.No.258 Revenue (Endowments–I) dated 31-03-1988. As per Rule 3 of the Rules, the Assistant Commissioner in whose territorial jurisdiction the institution is situated shall, 90 days before the expiry of the Trust Board, report to the authority competent to appoint trustees. Rule 4 of the Rules contains the procedure for publication of notice according to which after getting a report from the Assistant Commissioner, competent authority shall cause publication of notice in Form-I. Such notice shall be affixed on the Notice Board of the office or on the front door of the institution or endowment, on the Notice Board of the Sarpanch, Mandal Revenue Officer and Mandal Office and on the Notice Board of the office of various Departmental Heads. The proviso to Rule 4(2) also provides for publication in a daily news paper, if the institution is situated in big cities and is

capable of meting the cost of publication.

In the case on hand though it is alleged by the petitioner that no such notice in Form-I was published as required under Rule 4 of the Rules, in the counter affidavit filed on behalf of the respondents 1 and 2 it is explained that the Assistant Commissioner of Endowments had affixed the notice in Form-I in his office on 13-07-2006 and that the said notice was also affixed on the Notice Board of the temple on 15-07-2006. It is also relevant to note that the Executive Officer of the temple gave a statement in the press inviting applications from the eligible candidates.

On a careful reading of the provisions of Rules 3 and 4 of the Rules, I do not find any substance in the contention of the learned counsel for the petitioner that the procedure followed by the respondents 1 to 3 in causing publication of the notice inviting applications for appointment of trustees was not in conformity with the requirement of law.

The object of the notice under Rule 4 is to inform all interested persons about the proposed constitution of the Trust Board. The said purpose of publicity was very well achieved in the instant case by affixing the notice in the notice board of the temple and the office of the Assistant Commissioner, particularly by the press statement given by the Executive Officer. Rule 4(2) did not provide for publication in the local dailies in Form-I. Hence, the press statement given by the Executive Officer which was sufficient to inform all interested persons has satisfied the requirement of Rule 4(2) of the Rules. As a matter of fact, the requirement of the publication in the local dailies itself is not mandatory. Therefore, on that ground, the selection process cannot be held to be vitiated.

Even the contention that the press statement issued by the Executive Officer inviting applications and various steps taken by the second respondent-Commissioner of Endowments for publication of notice were without jurisdiction since the Government alone is

competent to exercise the powers under Section 15(1) (a) for appointment of the Board of Trustees is untenable having regard to the language of Rule 4 read with Form-I appended to the Rules. As held by this Court in W.P.Nos.1020 and 1337 of 2007 “cause publication” is different from taking out publication or published notice in Form-I and therefore the statement by the Executive Officer in the Press and the publication caused by the other Officials in Form-I is sufficient compliance and cannot be held to be without authority.

In the circumstances, the writ petition, which is devoid of any merit, is hereby dismissed. Needless to mention that the interim order granted by this Court shall stand vacated. No costs.

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G. ROHINI, J

Date: 26-07-2007

Note: Issue C.C. in three days.

B/o

KLP